

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application of:

Herbert SCHWARZ et al.

Art Unit: 1642

Serial No.: 10/539,257

Examiner: Yoa

Filed: June 16, 2005

For: USE OF CD137 ANTAGONISTS FOR THE TREATMENT OF TUMORS

**RESPONSE TO RESTRICTION/ELECTION**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

In response to the Office action dated 25 March 2008, applicants elect, with traverse, a specific antibody within Group 1 (Claims 1-12 and 22-25-drawn to a method of treating CD137 expression tumor by in vivo administering a CD-137 antagonist).

Furthermore, with regards to the election of species set forth on page 4 of the Office Action, Applicants elect, with traverse:

- A) B cell lymphoma and
- B) Antibody BBK-2.

The traversal is on the basis that the Office Action has not established that it would pose an undue search burden to examine the full scope of the present claims. Furthermore, the BBK-2 antibody is useful for all cancer types that express CD137 as a neo-antigen and not just B-cell lymphoma. CD137 expression is a shared property.

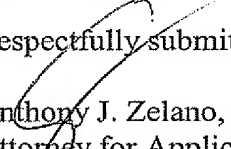
The Examiner is encouraged to examine the broadest possible scope of invention indicated by the elected species. In accordance with M.P.E.P. §803.02, the Examiner is reminded that, should no prior art be found which renders the invention of the elected species unpatentable, the search of the remainder of the generic claim(s) should be continued in the same application. It is improper for the PTO to refuse to examine in one application the entire scope

of the claims therein unless they lack unity of invention.

If any issues remain, applicants request that the Examiner contact the undersigned by telephone to expeditiously resolve any outstanding issues.

The Commissioner is hereby authorized to charge any fees associated with this response or credit any overpayment to Deposit Account No. 13-3402.

Respectfully submitted,

  
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Date: **24 April 2008**

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